

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA**

WALTER JAMAR AVERY,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 3:05-cv-631-MEF-CSC
)	
LEE COUNTY DETENTION)	
FACILITY, et al.)	
)	
Defendants.)	

AFFIDAVIT OF COREY WELCH

STATE OF ALABAMA)
)
COUNTY OF LEE)

BEFORE ME, the undersigned authority and Notary Public in and for said County and State at large, personally appeared COREY WELCH, who being known to me and being by me first duly sworn on oath deposes and says as follows:

1. My name is Corey Welch. I am over the age of nineteen and competent to execute this affidavit. I am employed by the Lee County Sheriff's Department and work in the Lee County Detention Facility. I have worked as a correctional officer for over ten years, having obtained the rank of Lieutenant in November, 2004. I am both a graduate of the Police Academy and the Alabama Jail Management School.

2. I am familiar with the Plaintiff, Walter Avery, due to his incarcerations in the Lee County Detention Facility. I am also familiar with the Plaintiff's claims as I spoke with him personally about the length of his sentence on the last charge for which he was incarcerated.

3. According to the Plaintiff's jail file, he was arrested on June 5, 2004, and originally charged with Rape. Avery's sentence was, however, reduced to Attempted Sexual Abuse I and he was sentenced on October 26, 2004. Per Circuit Judge Walker's Committal To Custody, the Plaintiff was originally sentenced, on October 26, 2004, to twelve months in the County Jail with 144 days of jail credit.

4. Although I do not remember the exact date, it was shortly before the Plaintiff was to have been released, with his jail credit included, that the Plaintiff talked to me personally, when he was up in the booking area, about his actual release date. I informed Avery that I would check into the matter and went to look through his file to calculate his exact release date. Per our policy and standard practice, I called the Judge's Chambers to confirm his sentence with the jail credit as noted on the Committal To Custody. This is done before every release to ensure that the appropriate amount of time has been served and that the appropriate amount of credit time has been credited to each inmate. Judge Walker's secretary, Ms. Janice Nolan, returned my call and informed me that Judge Walker wanted the jail credit taken away so that Avery was to serve his full twelve month sentence. This was noted on the Plaintiff's Committal To Custody form.

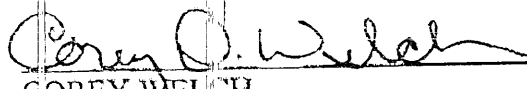
5. As it does not often happen that jail credit is taken away by a Judge, I wanted to confirm, out of an abundance of caution, that it was the Judge's intention to remove the 144 days jail credit originally given. Thus, I had Sergeant Lucy Butler, the Court Security Officer, who has been employed with the Lee County Sheriff's Department for over 15 years, to check with Judge Walker's officer regarding this matter. Sergeant Butler left me a note that stated "the case was reduced from Rape to Sexual Abuse I. Because of the seriousness of the offense [Judge Walker] wanted him to serve all of the time. Sergeant Butler." This note was placed into Mr. Avery's file

and his jail credit was then removed. This entire process was explained to Mr. Avery based upon his initial verbal inquiry to me about his release date.


6. However, never I have I received any written request or grievance from the Plaintiff concerning the removal of his time served jail credit by Judge Walker. Had I received any such request or grievance I would have made a written response to the Plaintiff and placed the request and/or grievance in his inmate file. There is no such request or grievance in his inmate file.

7. The Lee County Detention Facility officers do not have the authority to either grant or remove credit for time served unless it is approved by the sentencing Judge.

8. I swear, to the best of my present knowledge, information, and belief, that the above statements are true, that I am competent to make this affidavit, and that the above statements were made by drawing from my personal knowledge of the situation.


COREY WELCH

SWORN TO and SUBSCRIBED before me this 4 day of October, 2005.


NOTARY PUBLIC
My Commission Expires: MY COMMISSION EXPIRES FEB. 10, 2007

3